



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MQB/173250

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 28, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on April 26, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the appeal is timely.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has been a recipient of Medicare Savings Program benefits; specifically, Specified Low-Income Medicare Beneficiary (SLMB) benefits.
3. Petitioner was sent a notice dated November 30, 2015 that informed her that Medicare Savings Program (MSP) benefits (here again – SLMB) was being discontinued effective January 1, 2016. That

notice was sent to Petitioner at the above address. The notice contains appeal instructions and noted an appeal deadline of February 16, 2016.

4. The agency discontinued Petitioner's MSP because it concluded that her income was in excess of SLMB premium limits. Petitioner's income consists of Social Security benefits of \$1276.00. After a \$20.00 disregard her income is \$1256.00.
5. This appeal was filed on March 28, 2016.

### **DISCUSSION**

Timeliness was not an issue raised at the hearing but in reviewing this case for this written decision it became apparent that timeliness has to be addressed. In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. A timely hearing request concerning Medical Assistance matters must be filed within 45 days of the notice of the county agency decision. §49.45(5)(a), *Wis. Stats.* Here it is apparent that the hearing was requested after the February 16, 2015 appeal filing deadline. Thus the appeal is untimely as to the case closure and the Division of Hearings and Appeals without authority to act.

Even if, however, this appeal were timely I would not find for Petitioner for the following reason.

Medicare is an insurance program and charges coinsurance, deductibles and monthly premiums. These out-of-pocket expenses of Medicare beneficiaries are generally referred to as 'Medicare cost-sharing.' For certain Wisconsin residents who receive Medicare, Wisconsin Medicaid pays some or all of their Medicare cost-sharing. These State Medicaid programs are called Medicare Savings Programs (MSP). *Medicaid Eligibility Handbook (MEH)*, §32.1.1. There are 4 levels to the MSPs per the MEH at §32.1.1:

- Qualified Medicare Beneficiary (QMB).
- Specified Low-Income Medicare Beneficiary (SLMB).
- Specified Low-Income Medicare Beneficiary Plus (SLMB+), also known as Qualifying Individuals - 1 (QI-1).
- Qualified Disabled and Working Individuals (QDWI).

The MSP benefits are:

#### 32.1.3 MSP Benefits

1. QMB Medicaid pays Medicare Part A & B premiums and Medicare deductibles and coinsurance.
  2. SLMB Medicaid pays Medicare Part B premiums.
  3. SLMB +. Medicaid pays Medicare Part B premiums.
  4. QDWI Medicaid pays Medicare Part A premiums.
- MEH*, §32.1.3.

The income limits for a group of 1 are percentages of the Federal Poverty Level (FPL) and are as follows:

QMB - 100% FPL - \$980.00, *MEH*, §§32.2.3 and 39.5;  
 SLMB - 120% FPL - \$1188.00, *MEH*, §32.3.2  
 SLMB+ - 135% FPL - \$1336.50, *MEH*, §§32.4.2 and 39.5.  
 QDWI - 200% FPL - \$1980.00, *MEH*, §32.5.2 and 39.5.

Petitioner's income is over the income limits for the discontinued benefit, i.e., SLMB.

### **CONCLUSIONS OF LAW**

That this appeal is untimely.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

**APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 14th day of June, 2016

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on June 14, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability